



**In the Matter of:**

**JOYCE C. WAHLIN RHOADES,**

**ARB CASE NO. 04-038**

**COMPLAINANT,**

**ALJ CASE NO. 2003-STA-41**

**v.**

**DATE: March 18, 2004**

**FIRST STUDENT, INC.,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

*For the Complainant:*

**Paul O. Taylor, Esq., *Truckers Justice Center, Burnsville, Minnesota***

*For the Respondent:*

**Donald G. Heeman, Esq., *Felhaber, Larson, Fenlon & Vogt, Minneapolis, Minnesota***

**FINAL ORDER APPROVING SETTLEMENT  
AND DISMISSING COMPLAINT**

**BACKGROUND**

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. § 31105 (West 1997), and implementing regulations at 29 C.F.R. Part 1978 (2003) (STAA). The parties submitted a "Settlement Agreement and Full and Final Release of All Claims," seeking approval of the settlement and dismissal of the complaint. The Administrative Law Judge (ALJ) below issued a Decision and Order Approving Settlement Agreement (D. & O.), recommending approval of the parties' agreement and dismissal of the complaint with prejudice.

## DISCUSSION

Pursuant to STAA § 31105(b)(2)(C), “[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation.” Under regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary’s preliminary findings “if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board . . . or the ALJ.” 29 C.F.R. § 1978.111(d)(2). The regulations direct the parties to file a copy of the settlement “with the ALJ or the Administrative Review Board as the case may be.” *Id.* In this case, at the time the parties reached a settlement, the case was pending before the ALJ. Therefore, the ALJ appropriately reviewed the settlement agreement. However, pursuant to 29 C.F.R. § 1978.109(c), the Administrative Review Board, must, nevertheless, issue a final decision and order in this case. *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 00-STA-50 (ARB Sept. 26, 2001); *Cook v. Shaffer Trucking Inc.*, ARB No. 01-051, ALJ No. 00-STA-17 (ARB May 30, 2001). The parties have not filed objections to the ALJ’s Order.

The Board requires that all parties requesting settlement approval provide the settlement documentation for any other alleged claims arising from the same factual circumstances forming the basis of the federal claim, or certify that the parties have not entered into other such settlement agreements. See *Biddy v. Alyeska Pipeline Serv. Co.*, ARB Nos. 96-109, 97-015, ALJ No. 95-TSC-7, slip op. at 3 (ARB Dec. 3, 1996). In the instant case the parties have certified that the agreement constitutes the entire settlement agreement with respect to the Complainant’s claims. See Settlement Agreement, ¶ 7.

Review of the agreement reveals that it may encompass the settlement of matters under laws other than the STAA. See ¶ 2(B). The Board’s authority over settlement agreements is limited to such statutes as are within the Board’s jurisdiction and is defined by the applicable statute. Therefore, we approve only the terms of the agreement pertaining to the Complainant’s STAA claim. *Fish v. H and R Transfer*, ARB No. 01-071, ALJ No. 00-STA-56 (Apr. 30, 2003).

Paragraph 2(E) of the agreement provides that the parties shall keep the terms of the settlement confidential, with certain specified exceptions. We have held, “[t]he parties’ submissions, including the agreement become part of the record of the case and are subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (1988). FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under the Act.” *Coffman v. Alyeska Pipeline Services Co. and Arctic Slope Inspection Services*, ARB No. 96-141, ALJ Nos. 96-TSC-5, 6, slip op. at 2 (ARB June 24, 1996). Department of Labor regulations provide specific procedures for responding to FOIA requests, for appeals by requestors from denials of such requests, and for

protecting the interests of submitters of confidential commercial information. *See* 29 C.F.R. Part 70 (2003).<sup>1</sup>

### CONCLUSION

The parties have agreed to settle the Complainant's STAA claim. Accordingly, we **APPROVE** the agreement and **DISMISS** the complaint with prejudice.

**SO ORDERED.**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**

**JUDITH S. BOGGS**  
**Administrative Appeals Judge**

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<sup>1</sup> "Pursuant to 29 C.F.R. § 70.26(b), submitters may designate specific information as confidential commercial information to be handled as provided in the regulations. When FOIA requests are received for such information, the Department of Labor will notify the submitter promptly, 29 C.F.R. § 70.26(c); the submitter will be given a reasonable amount of time to state its objections to disclosure, 29 C.F.R. § 70.26(e); and the submitter will be notified if a decision is made to disclose the information, 29 C.F.R. § 70.26(f). If the information is withheld and a suit is filed by the requester to compel disclosure, the submitter will be notified, 29 C.F.R. § 70.26(h)." *Coffman*, slip op. at 2, n.2.